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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,523	10/17/2003	Will Heddon		2108

7590 03/16/2005
Arthur W. Fisher III
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EXAMINER

PIERCE, WILLIAM M

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/688,523	Applicant(s) HEDDON, WILL	
	Examiner William M Pierce	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/17/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 112***

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

One cannot determine if the claims call for the combination of the retractable bumper assembly and the rail positioning device. In claim 1, the body of the claim positively refers to "the elongated rail" without a positively recited antecedent. Further positive recitations to "the elongated rail" and "the adjacent gutter" allude to that a combination is being set forth and not just a "positioning device" as recited in the preamble.

Claims 1-21 further lack clear structural relationships between the elements. For example, a "rail positioning assembly disposed in an operational relationship relative to a rail positioning actuator" does little to define how these two elements related structurally to one another. This lack of structural relationship renders the claims vague such that one can "pick and choose" elements shown in the prior art without having to meet any clearly set forth structural relationships.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Dagenais 6,270,136.

For the purposes of this rejection the claims are being interpreted as not including the combination of the "retractable bumper assembly". Hence the scope of the claims call for a "positioning device" were reference to the bumper assembly is considered intended use. As such, as to claim 1, Dagenais shows a device capable of being used with a bumper assembly comprising a positioning assembly 37 and a positioning actuator 36. The intended use of the device to "engages the elongated rail..." pertains to the intended use of the device and fails to distinguish over the applied art. As to claims 2, and 12, 13 is considered a positioning member and 11 is considered a positioning element. As to claims 3 and 13, the rod leaving the actuator 36 connecting to 11 is considered to be the actuator element. As to claims 4, 5, 8, 9 and 13-21, 12 is considered to be a camming inclined surface on the positioning member. As to claims 6 and 7 a camming surface is considered to be at reference 14. The rod of 36 is considered to

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be an "actuator element positioning device" as called for in claim 10. As to claim 11, the actuator element in the rod leaving the actuator 36 connecting to the positioning member 11 is shown.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Higashi 5,681,224.

As to claims 1, Higashi shows a rail positioning assembly 3 and an actuator 2. As to claim 2 and 12, 33 is the rail positioning member and 4 is the rail positioning element. As to claim 3, an actuator element is shown at 22. As to claims 4, 6, 7 the rounded portion of the rail positioning member 3 is considered a "camming surface" that engages the rail positioning element at 33. As to claims 5, 8, 9 and 13-21, the rail positioning member 3 is considered to have an "inclined surface" between positions 31 and 33 to engage the rail positioning element 4. As to claims 10 and 11, 22 is considered an actuator element positioning device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wortman shows a hydraulically actuated bumper system for bowling and Elfrink shows a hydraulic actuator device with a camming surface.


Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (571) 272-4414.

For **official fax** communications to be officially entered in the application the fax number is (703) 872-9306.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.


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